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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,437	01/06/2004	Wen Li	M4065.0271/P271-A	3920

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EXAMINER

DOGAN, ERIN L

ART UNIT PAPER NUMBER

2115

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/751,437	<b>Applicant(s)</b> LI ET AL.	
	<b>Examiner</b> Erin L. Dogan	<b>Art Unit</b> 2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 67-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 67-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/06/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/06/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 67-92 are pending in the application.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 68 and 70 recites the limitation "said act of positioning..." in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 67-92 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayek et al (US 6,112,284).

4. For Claims 67,73,79 and 86, Hayek et al discloses a processor and semiconductor device system, that contains DRAM connected to the processor and a system for calibrating a data path of a digital circuit [Figure 1. (102)(230)(105), column 3, lines 31-33]. The system contains a logic circuit that is able to determine and position a clock transition at the start of the data eye window [column 2, lines 16-17, column 4,

lines 37-38 and column 5, lines 27-29. The system then moves the clock transition to approximately a center of the data eye based upon the start position determined [column 4, lines 24-26].

5. For Claims, 68, 74, 80, and 87, Hayek et al discloses the adjustment of the “relative timing of said bit of data with respect to said clock transition”[column 3, lines 1-3].

6. For Claims 69, 75, 81, and 88, Hayek et al discloses the ability to clock the data on the datapath into a digital circuit utilizing a latch circuit [column 4, lines 33-39, Figure 1. (260)].

7. For Claims 70, 76, 82, and 89, Hayek et al discloses the ability to “adjust the relative timing of the data with respect to said clock signal by a predetermined amount which is approximately equal to one-half of a width.. “ or center “.. of said data eye” [column 2, lines 66-67, column 3, lines 1-3].

8. For Claims 71, 77, 83, and 90, Hayek et al discloses the ability to delay the data by a predetermined amount [column 4, lines 24-26].

***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 67-92 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 11, 16, 26, 33, 34, 42, 49, 52, and 59-60 of U.S. Patent No. 6,691,214 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because in view of the "obviousness-type" double patenting rationale enunciated in *Georgia Pacific Corp v United States Gypsum Co.*, 52 USPQ2d 1590, U.S. Court of Appeals Federal Circuit 199, application claims 67-92 merely define an obvious variation of the invention claimed in US patent 6,691,214 B1.

11. After analyzing the language of the claims, it is clear that claim 67, 73, 79, and 86 of the application is merely a **subset** of claim 1, 16, 33, and 49, respectively of the '214 B1 patent, and is an obvious variation of claim 1 of the '214 B1 patent. The method, system, device, and processor of claim 67 of the instant application is a **SUBSET** of the method, system, device and processor of claims 1, 16, 33, and 49, respectively of the '214 B1 patent.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erin L. Dogan whose telephone number is 571-272-1412. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on (571)272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Erin Dogan  
Patent Examiner  
Art Unit 2115



**CHUN CAO**  
**PRIMARY EXAMINER**